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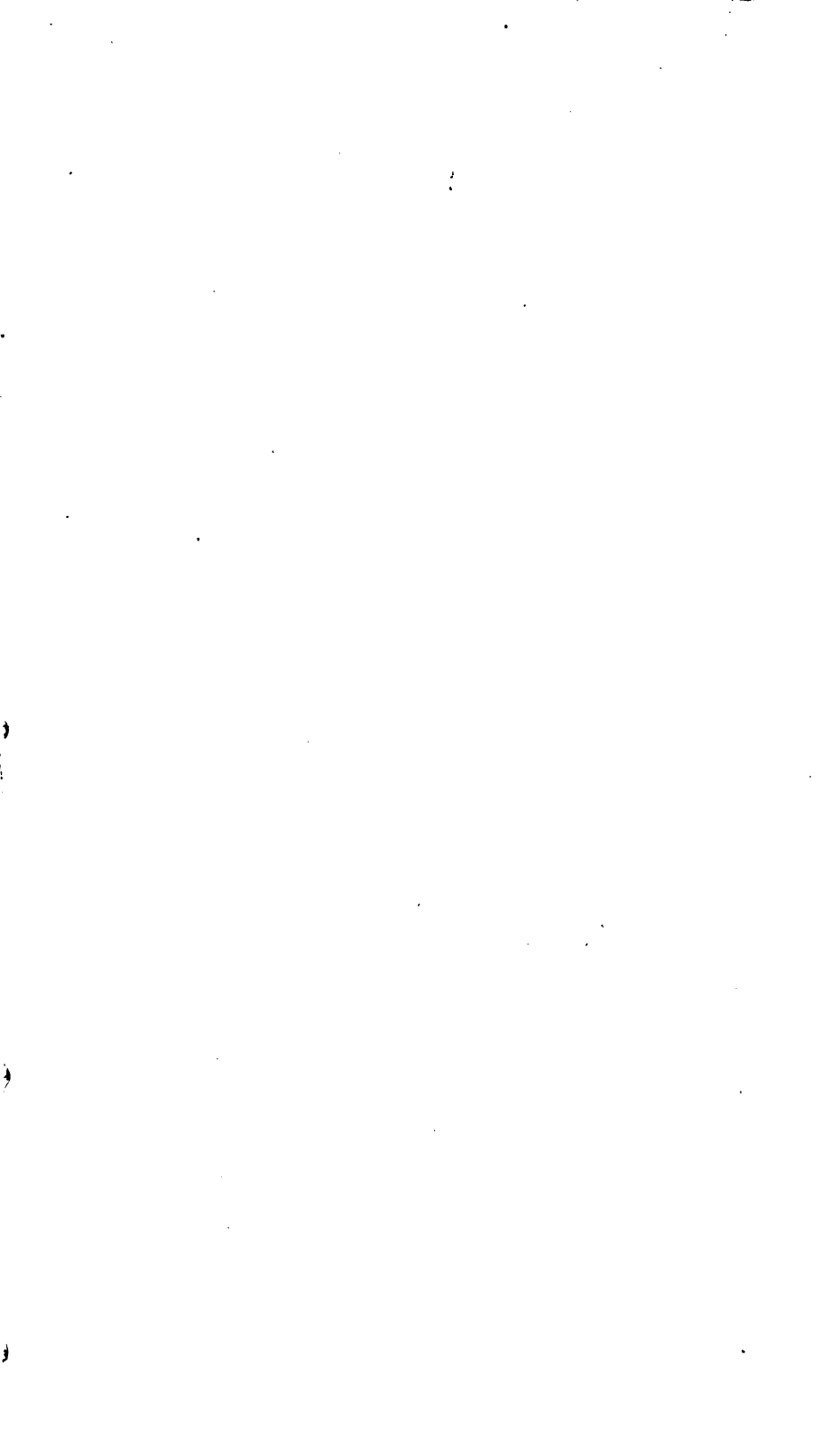
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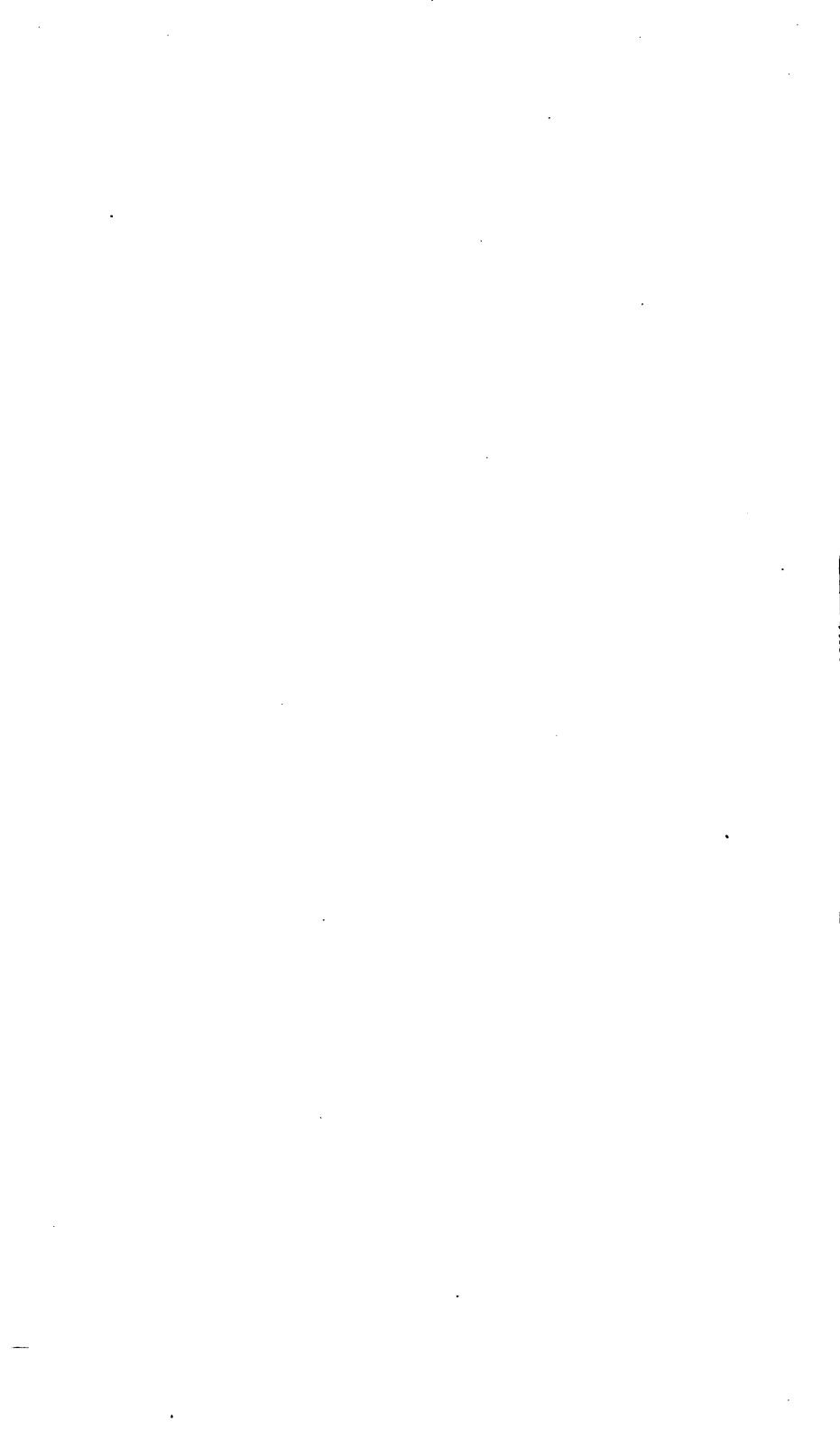
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**THE BEQUEST OF
EVERT JANSEN WENDELL
(CLASS OF 1882)
OF NEW YORK**

1918





**INAUGURAL
ADDRESSES,**

**DELIVERED BY THE
PROFESSORS OF LAW,
IN THE
UNIVERSITY**

**OF THE
CITY OF NEW-YORK;
AT THE OPENING OF THE LAW SCHOOL OF THAT
INSTITUTION.**

**PUBLISHED AT THE REQUEST OF THE COUNCIL
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1918

NOTICE.

THE establishment of a Law Faculty formed a part of the original design of the University of the City of New-York ; and as early as 1835, a plan for this purpose, drawn up by Mr. *Butler*, the present Principal of the Faculty, was adopted by the Council. The official engagements of that gentleman, not allowing him to enter on the duties of his Professorship until the present year, and the Council not wishing to lose his services in the school, its complete organization has been accordingly delayed.

The Faculty consists of the following Professors : —

BENJAMIN F. BUTLER, Professor of General Law, and of the Law of Real Property, and Principal of the Faculty.

WILLIAM KENT, Professor of the Law of Persons and Personal Property ; and

DAVID GRAHAM, Junior, Professor of the Law of Pleading and Practice.

The School is divided into three Departments — a Department of Practice and Pleading ; another of the Law of Persons and Personal Property including Commercial Law ; and a third of the Law of Real Property and of Equity ; — under the care of the Professors above named respectively.

The course of study in each Department will embrace one

year ; the full course, three years. In addition to the lectures in the several Departments, a Parallel or General Course is to be given to the whole School, by the Principal, on the Law of Nature and Nations, and the Jurisprudence of the United States.

The Inaugural Addresses were delivered in succession on the same evening, and were therefore necessarily confined within brief limits. In revising them for the press, some of the topics, along with other emendations, have been occasionally enlarged.

April, 1838.

THE
USEFULNESS OF THE LEGAL PROFESSION;
AND THE
NECESSITY AND IMPORTANCE OF PROVIDING ADDITIONAL
MEANS FOR INSTRUCTION IN LEGAL SCIENCE:

AN
INAUGURAL ADDRESS,

BY
BENJAMIN F. BUTLER,

Professor of General Law, and of the Law of Real Property, in the University
of the City of New-York, and Principal of the Law Faculty
of that Institution.

A D D R E S S .

WHATEVER may be the success of the undertaking now to be commenced, it will be easy to show its necessity and importance.

Man, as a social being, stands in constant need of the protection and restraints of Law. This is one of those fundamental truths instinctively apprehended by reason, and abundantly confirmed in the history of our race.

Equally clear is it, that in proportion to the wisdom and equity of the laws, and to the faithfulness and promptitude with which they are administered, will be, in any given community, the virtue and prosperity of its members, and its prospects of advancement in strength and honour. On the other hand, all experience has shown, that little good can be derived from the most perfect system of jurisprudence, if its administration be committed to corrupt or incompetent hands.

But there is another truth connected with this subject, and one too of great practical importance, which though sufficiently obvious to reflecting minds, does not seem to be so generally understood as it deserves. It is, that a just administration of the laws, can only be secured, by providing and keeping up a succession of learned and upright professors of its science and practice. A moment's attention to this point, whilst it will illustrate the usefulness of the Legal Profession, will also, it is believed, naturally lead us to a train of reflections well calculated to display the necessity and importance of

providing additional facilities for instruction in Legal Science.

In every community, much advanced in civilization, the Municipal Law soon becomes so voluminous and artificial, that it can only be well understood and rightly applied, by those who make it their peculiar study. In spite too of all that may be gained by periodical reforms, the increase of population and of wealth, improvements in the arts of life, and changes in the habits and feelings of society, will be ever adding to the body of existing laws, and to the complexity of their provisions. Hence the necessity for a particular class of men qualified by education and experience, to counsel and assist their fellow citizens ; to prepare the contracts, conveyances and other instruments required in the various transactions of life ; to conduct and defend suits and prosecutions in the courts of justice ; to study and discuss the manifold questions of fact and of law which are constantly arising, and which without their aid would seldom be thoroughly sifted, or properly decided ; and to furnish, from time to time, in the persons of their ablest and most worthy members, the various judicial and other officers required in the practical administration of the laws. Without the assistance of such persons, serious mistakes would constantly occur in the business of individuals ; many rights would be abandoned through ignorance, or lost by mismanagement ; many wrongs would go unredressed ; unfounded claims would frequently be set up and enforced ; and uncertainty, injustice, and fraud would extensively prevail. In the end, the law would fail to be regularly observed ; justice cease to be faithfully dispensed ; property and other rights become insecure ; and society go backward to anarchy and barbarism.

Such, then, is the high vocation of the Lawyer. He is called to minister in the temple of justice — to minister not merely in conducting its solemnities, but in awarding and distributing its blessings. In this view of his duties, how important to society that he be well instructed in the learning of his Profession !

The Law, rightly understood, is one of the noblest of the moral sciences. But to be thus apprehended by its professors, they must study it as a science. This cannot be done, on the methods now in use in this state, except at great disadvantage and with much loss of time. It is only in a regular Law School, and by the aid of competent instructors in the different branches, that the student can find opportunity or means for the easy and thorough acquisition of the elements of Legal Science. “The law is unknown to him,” (said one of the oracles of the Profession,) “who knoweth not the *reason* thereof.” Unless, therefore, the Law, like other sciences, be taught by a detailed and systematic explication of its principles, it will degenerate into an art, or at best, into a mere compilation of positive rules ; and he will be the greatest lawyer, not who has the largest understanding and the most commanding genius, but he who has the strongest memory, and the greatest aptness and dexterity in the use of forms.

This thorough exhibition of principles and of the reasons on which they are founded, though necessary in every part of our jurisprudence, is important, above all, in the study of the Law of Real Property — one of the subjects to which my own labours are to be dedicated. This branch of our Law, though it has been adapted, in many of its features, to the genius of our government, and simplified in other respects, is yet exceedingly abstruse. We find, in every part of it, constant neces-

sity for recurring to the ancient sources from which its fundamental principles have been drawn, and to the various modifications through which they had passed, before their transfer to this continent. To understand its rules and to retain them in the memory, we must begin with the rude institutions of the Anglo-Saxons; analyze the polity of the feudal system; and trace the history of landed property in England, from the Norman conquest to the abolition of the military tenures in the reign of Charles II. Explanations derived from researches of this nature, are needed by the tyro at every step; and if seasonably given, will greatly facilitate his progress.

Nor is a thorough knowledge of principles and of their origin and history unimportant, even to those who intend to confine themselves to the labours of the office. It is only by such knowledge, that they can be well qualified for the preparation of contracts, conveyances, wills, and pleadings; and for the safe and skilful management of legal proceedings. When this knowledge is possessed, the employment of the office lawyer, though less brilliant than that of the advocate, is equally important and useful to the community; and, as might be shown by reference to several honourable examples in our city, equally sure of distinction and reward.

That a Law School in this city, properly conducted, will be useful to students and to junior members of the Bar, is, I believe, admitted by all who have reflected on the subject. Independently of the general reasons for such institutions, in those parts of the Union which do not now possess them, there are many circumstances in our present condition which call for the establishment of such a school in this place.

For the first twenty or thirty years after the Revolution,

the business of the Profession was not so multifarious or pressing, even in the more populous states, as to prevent those of its members who were ambitious of distinction, from finding leisure for study and self-instruction. In this way the deficiencies of professional education were made up ; and a body of able lawyers was created, forming, in every quarter of the country, the most brilliant and precious of its ornaments. Not to speak of our sister states, or of other parts of our own state, this city, within the last forty years, has been illuminated by at least two constellations, of the brightest professional talent. Of the luminaries included in the latest, a few yet remain, to instruct us from the bench, or delight us at the bar ; and to remind us of the eminence attained by our predecessors. That vantage ground, without great exertions, *we* can never reach. Our law has been greatly enlarged, in some of its branches, by new statutory provisions, and by modern books of reports and other works ; newspapers, periodical literature, and works of an attractive nature in every department of knowledge, are constantly seducing us from severe professional studies ; and even the most diligent find it difficult to make time, for the adequate preparation of particular cases. Still less, can they command it, for extended and systematic study. There are yet other hindrances, of a more serious character. The professional mind enters too deeply into the excitements and agitations of the day, to make solid attainments in science ; and what is still more discouraging, the high professional ambition of former times, has too frequently been supplanted by the love of gain, and by the passion for office and political distinction.

These unhappy influences must be strenuously resisted ; and the Bar must strive, with wise self-denial, and

by patient labour, to overcome the difficulties that beset them, and to reach the sacred heights of their noble science. These efforts, too, must be speedily commenced and faithfully prosecuted,

“Or all that we have left is empty talk,
Of *old* achievements, and despair of *new*!”

Whatever may be the conduct of our cotemporaries, our hopes for the future must chiefly depend on the youth now employed, or hereafter to be employed, in professional studies. But the obstacles to the scientific pursuit of those studies, in some respects at least, will increase with every succeeding year. New statutes will be passed; the “*mille plaustra librorum*” will receive additional accessions; and other pursuits will be equally enticing. How idle then to hope that the learning of the Bar can be kept up, to even its present standard—much less be advanced in correspondence with the improvements in other sciences, and the wants of the community—without new incentives and encouragements to labour—new helps in the acquisition of Legal Knowledge?*

Thus far I have confined myself, to considerations growing out of the direct and ordinary functions of the Bar. There are others of a wider, perhaps more important, bearing.

As already observed, the process of law making, especially in free countries, is constantly going on, and must ever be continued. Of its solemnity and import-

* In 1810, all the American Reports amounted to only about 60 volumes; they now exceed 475! The English Reports, during the same period, have also greatly increased. It is obvious, that with this immense and rapidly increasing accumulation of adjudged cases, the science of the Law will soon degenerate, unless those who are to cite and use them, be well instructed in the principles and reason of the Law.

ance it is superfluous to speak : what now deserves our notice, is, that the actual preparation of new laws, has usually been devolved, in all ages, (and from the nature and necessities of the case, must continue to be devolved,) on the members of the Legal Profession. The Institutes and other compilations of Justinian, and his predecessors—those undying memorials of Roman ~~mind, which~~ ^{law}, so many ages after the ruin of the Coliseum and the Capitol, yet give the rule to a large portion of continental Europe, and exert in England, and even here, an influence so considerable ;—the French Code—that splendid relic (perhaps the only one destined to immortality) of the reign of Napoleon ;—and the other extensive systems of municipal law, issued in ancient or modern times, in the names and by the authority of enlightened sovereigns ;—have all been prepared by lawyers.

In countries where the legislative power is vested, either wholly or in part, in representative assemblies, the usefulness of lawyers in the business of legislation, is so generally acknowledged, that we usually find, in such assemblies, a very large proportion of members of the Bar. Their familiarity with the subjects and modes of legislation, and their general readiness as speakers, (especially when united with a high character in other respects,) also give them a weight and influence in every legislative body, far exceeding mere numerical proportions, and embracing every subject within the scope of the legislative power. This highest attribute of sovereignty, being thus chiefly devolved on members of the Legal Profession, how indispensable is it, that the means of professional instruction should be wisely adapted, to qualify them for the discharge of a duty so momentous !

Such qualifications are especially needed in the Pro-

fession, to secure, from time to time, judicious and practical reforms, in the civil code and in the modes of legal procedure. There is every where, as society advances, a strong tendency to undue complexity and refinement in the laws; and, where the frame of government allows it, to partial and oppressive regulations. We have seen in the history of that country from which we have derived our jurisprudence, that a ~~system of jurisprudence~~ ~~which~~ originally imbued with a noble spirit of equality and justice, may yet become, in the lapse of ages, and under the controlling influence of aristocratic institutions, intolerably voluminous, intricate, and artificial, and in many respects, exceedingly partial and unjust. In such a state of things, the Profession of the Law, though doubly necessary to the business of the community, loses much of its real dignity. The mere practitioners of its most mechanical forms, swell into a distinct and numerous class; and whilst the intricacy, expense, and delay of legal proceedings harass the honest suitor, and hold out a bounty to injustice and litigation, they bring the laws themselves into general discredit. If it be long continued, the whole system, in its principles and practice, will come to be regarded as one of the most grievous of social evils; and the candid jurist will be compelled to admit the truth of the complaint.

This tendency to undue and partial legislation, and to complexity and expense in the administration of justice, requires, even with us, to be constantly watched, and to be met, at seasonable intervals, by such remedies as the public welfare may demand. But no task is more difficult, than that of devising and executing, with safety and success, these remedial measures. From the necessity of the case, they must be chiefly performed by members of the Legal Profession; and unless the

professional mind be imbued with a liberal and enlightened spirit, a large proportion of the Bar will be likely to discourage, if not to oppose, every attempt at reform. Such unworthy prejudices have, indeed, frequently been charged (especially in England) on the whole Profession, as a necessary consequence of its studies and pursuits ; when in truth, they only belong, as a general rule, to those who practice the law, merely as a trade, without understanding and loving it as a science. The really learned Lawyer, though averse to rash and unnecessary innovation, is generally ready to "visit and strengthen" the foundations of the science, and to amend, adorn, and perfect its various superstructures. It was one of the grand conceptions of Lord Bacon, that the common law should be reduced and systematically digested ; Sir Mathew Hale wrote an essay proposing the amendment and alteration of the law ; the projectors and most powerful advocates, in our own times, of legal reform in Great Britain, had been eminent at the bar ; and even Bentham—the Coryphæus of the band—was bred to the profession. So too in our own country, and especially in our own state. The numerous and extensive improvements made by lopping off inapplicable portions of the English jurisprudence, and by simplifying the parts we have retained, have all been proposed, digested, and executed by lawyers. To secure further and greater improvements of the like nature—improvements which shall adapt the law, in all its departments, to the principles of equality and justice which constitute the life of a republic—those who are to form the future bar of our country should be well instructed in the science of jurisprudence, and should be taught to practise it in a generous and honourable spirit.

Independently of the agency of lawyers in the admin-

istration of jurisprudence, and in legislation, they usually exert a wide influence over the opinions of their cotemporaries, and on all the interests of society. Whatever may be said of the profession at large, by the uninformed or the prejudiced; and however we may regret the narrow views and improper conduct of many of its members, the candid and enlightened will, I think, be ready to acknowledge, that in every age the eminent jurist has generally been known as the friend of learning, of morals, and of freedom.

Juridical studies and pursuits, of the higher grade, are certainly favourable to knowledge and virtue. The great lawyers of Europe have commonly maintained a pure moral character; many might be held up as patterns of virtue and religion. The eminent professional men of our own country are entitled to the like praise.

The distinguished jurist is usually also the champion of freedom. In common with the members of other learned professions, great lawyers have sometimes lent themselves to the establishment or defence of arbitrary power; but their course, for the most part, has been favourable to liberty; and a main reason for the fact is to be found in the nature of their studies. He who fully understands the beneficent design of the science of jurisprudence, and whose mind is imbued with its true spirit, cannot but sympathize with the rights of humanity and the claims of justice. Accordingly, in all the great struggles for liberty, in every important social or political reform, many of our profession have been first among the foremost.

When the doctrines of passive obedience and non-resistance were proclaimed from the throne and the pulpit, the English bar were among the first who sounded the alarm; and in the various conflicts which ensued, many

of their number were conspicuous on the side of the people. To those who are only familiar with the name of Sir Edward Coke, as one of the sages of the black letter law, it may perhaps be new to learn, that in several Parliaments in which he served after the age of seventy, he was distinguished by his efforts to support the rights and liberties of the Commons and the people against the usurpations of the Crown — thus atoning for the errors of earlier days, and vindicating the character of his profession. His last public act was the drawing up of the celebrated Petition of Rights in 1628; the most explicit declaration of English liberty which preceded the revolution of 1688. Many of the leaders in that revolution were lawyers. The noble stand taken, and the fearless course pursued, on the trial of the Bishops, by their counsel, gave to the movement its first decided impulse; it received its consummation in the Bill of Rights and the other legal and constitutional provisions framed by the great jurists and statesmen of the day. The progress in liberal opinions and in actual reform, since made in Great Britain, and especially within the last ten years, has frequently illustrated the same honourable truth.

In the history of Continental Europe, we may also find several conspicuous examples of the like nature. Among the early opponents of the Papal tyranny, were several learned and distinguished civilians, whose writings, it is said, contributed in no small degree, to the commencement of the Reformation.* The German states most distinguished for the cultivation of jurisprudence, have retained the largest amount of practical

* See Heineccii Opera, tom. ii., p. 747. *De jurisconsultis reformationi ecclesie præludentibus.*

freedom ; and the Batavian Republic, for a long time the favoured soil of liberty, was fruitful also of profound and enlightened jurists. The despotic power of the French crown was, from time to time, resisted and mitigated by the magistrates and legists in the Parliament ; and by the pure sentiments and inflexible justice of a L'Hopital, a D'Aguessieu, and a Pothier. When, at length, the burthen could no longer be borne, and the French people were summoned to reconstruct their social fabric on the basis of humanity and justice, many distinguished advocates were associated in the effort with La Fayette and his compatriots. So too, in the later history of that extraordinary nation, and down to the present moment, the Bar has furnished some of the ablest and most faithful supporters of the popular cause.

The spirit of these remarks might be extended by other references to European history ; but I hasten to notice the exemplification it has received in the history of our own country. The encroachments of the Crown and Parliament of Great Britain on the chartered rights of the colonies, were first denounced by the great lawyers of the day ; and they, in the controversies which followed, were chiefly relied on to conduct our part of the argument. The discussions, remonstrances, and appeals, published in the several colonies, were generally from this source. A majority of the first continental congress were lawyers ; and the well reasoned and eloquent state papers issued by that illustrious assembly (pronounced by Lord Chatham superior to the most celebrated productions of the master states of antiquity) were, it is believed, without a single exception, from professional pens. Twenty-one of the fifty-six signers of the Declaration of Independence, were of this calling ; and so were all but *one*, of the five members appointed to prepare that

instrument. To the honour of the Profession it should be also mentioned, that its members generally were decided and active in the cause of their country ; and that many of them signalized their devotion by sharing the toils and dangers of the field.

The influence of the Legal Profession is even more pervading and constant, and probably more useful, when things pursue their ordinary course, under established governments, than in the stirring periods of national excitement and revolution. Without looking to ancient times or to other countries, for examples under this head, we may learn from the history of the United States, that in exact proportion to the liberality of the political institutions under which they live, will be the participation of lawyers in the actual conduct of public affairs, and in all matters of social interest. All the Presidents of the United States (save the illustrious Washington) were bred to the Bar. The like remark may be applied to all the Governors of this state. The higher executive officers of the general and state governments, and a large proportion of each house of Congress, and of the several state legislatures, have usually been drawn from the same class. Efforts have, indeed, occasionally been made, to prevent the election or appointment of lawyers to offices of trust ; but have never extensively succeeded ; and so long as we shall live under a government of laws, we may reasonably expect, that able, patriotic, and virtuous citizens of this class, other things being equal, will usually be preferred by the people, for the more important branches of the public service. The agency of the Profession in the various associations for business, for public improvements of all kinds, and for the diffusion of education and morals, which abound in our country, is equally efficient.

In thus illustrating by facts, the usefulness and dignity of the Legal Profession, it is not my design to claim for it any special immunity or privilege. Far be it from me, to derogate from the usefulness or honour of any other virtuous calling ; or to countenance invidious distinctions in favour of that in which I have been bred. The foregoing statements have been made, because they exhibit, as it seems to me, in a clear and impressive light, the duty and importance of providing, in the best practicable manner, for the education of a profession so intimately connected with every leading public interest, and some of whose number, in succeeding years, may be expected to exert, for ill or for good, so wide an influence on the condition of our country. For it should never be forgotten, that an ignorant, or even an unskilful lawyer, may cause much inconvenience and suffering to others ; that a dishonest one is dangerous, in proportion to his knowledge and ability ; and that precisely as the general standard of professional eminence declines, will be the increase of such characters. In proportion, also, to the learning and virtue of the various ministers of the law, will be the reverence of the community for the law itself. The importance of this sentiment to the well being of society, and especially of a republic, is too obvious to need remark ; and if, as many fear, it is gradually growing weaker among our people, then indeed is there great reason for new and lasting efforts to preserve and elevate the character of the Bar.

It was in reference to these weighty considerations that the founders of the University of the city of New-York included in their plan the establishment of a Law Faculty, sufficiently comprehensive to embrace the principal departments of Legal Science. And to all cultivated minds, there must be pleasure in the thought, that

this effort is to be closely associated with a literary institution. Such an union, containing, as it does, a distinct acknowledgment of the connexion which exists between the different sciences, and of the usefulness of classical and other liberal studies as a preparative for a profession, may be expected to promote, as well the interests of general learning, as those of the Bar.

The profession of the law, is, indeed, so intimately connected with the most useful of the sciences, and may derive so much advantage from general literature, that in studying and pursuing it, those kindred subjects should be kept constantly in view. The whole science of Ethics is comprehended in the law; the principles of mental and natural philosophy, and of practical mechanics, should be understood by the lawyer; and the fortune, the reputation, or even the life of the client, may sometimes depend on his advocate's familiarity with medical jurisprudence, and on his knowing, or at least being able to learn with readiness, the elements of anatomy and other branches of medical science. Polite learning, in its various forms, is equally important. Eloquence especially — by which is meant in this connexion, such a command of language and of elocution, as may qualify the advocate to present his client's case in an impressive, skilful, and persuasive manner — is essential to the character of an accomplished lawyer. Those to whom this faculty is denied, may become learned in the principles of general jurisprudence, and in the laws of their own country; and may ably perform the duties of legislation and judicature; but without some share of eloquence, the more important offices of the Bar cannot be well discharged. In trials of great magnitude and exciting interest before a jury, there is always need of this talent, and oftentimes opportunity for the display of its

highest powers. In the discussion, at bar, of dry questions of law, there is, indeed, less occasion for its use. And as the rule of decision, on any given subject, is to be sought for in printed books, we are obliged to assent to the remark of a sensible modern writer, that "the veriest dolt that ever stammered a sentence, would be more attended to with a *case in point*, than Cicero with all his eloquence, unsupported by authorities."* But it is to be remembered, that the citation of authorities is not the only business of counsel. The principles involved in them, and the question how far they may apply to the matter in hand, will generally call into exercise, the analytic, discriminating, and reasoning faculty; and in every such effort there is some room for skill and ornament. "Cases in point," when presented in a clear and beautiful style, and illustrated by a chaste and animated elocution, are far more intelligible and impressive, than when unaccompanied by those advantages. Cicero himself may be quoted to this point. His orations abound with references to facts and precedents; and the careful and effective manner in which he states and applies them, may furnish us a proof of the usefulness of eloquence, even in this part of a discourse. It often happens too, that the adjudged cases which it becomes necessary to cite, are prolix and complicated in their details; and that the points really determined by them, are not easy to be understood, or if understood, are not easily reconcilable with, or distinguishable from, those settled by other decisions. This opens a wide field for comment and criticism, which admits, and to avoid weariness in the auditor, demands, the attractions of an agreeable and

* *Maddock*, in his Preface to the Principles and Practice of the Court of Chancery, page 15.

forcible delivery. The advocate who possesses these attractions, will be able to render this part of his argument intelligible if not interesting. In proportion as they are wanting, will be the weariness of his hearers, and the weakness of their impressions.

The various and eminent powers of THOMAS ADDIS EMMET, were never used with greater skill or effect, than in this branch of his professional duties. His expositions of the cases on which he relied, or which were cited by his antagonists, were always full and sometimes very minute ; he developed with care the principles on which they turned ; distinguished them from analogous or conflicting decisions ; and, as his purpose required, either presented their reasoning and conclusions in a clear and familiar light, or assailed them with all the weapons of wit, learning, and logic. Maintaining throughout, a correct and flowing diction, and never suffering his manner to flag, he kept up the attention of the judges ; enabled them to see the real character of the cited cases ; and rendered, what in less gifted hands, is usually dull and sometimes unspeakably tedious, a source of instruction and pleasure.

Let no lawyer, then, undervalue the usefulness of eloquence. The sun shining in his strength, is more powerful than when veiled by clouds, or dimly seen through fogs or mists. In like manner, reason, herself, derives new force from the lustre of a clear and polished style, and the ornaments of a chaste and appropriate elocution. Whilst, therefore, the learning of his profession should hold the first place in the regards of the student, the attainment of a manly eloquence should claim the second ; if the former is the right hand of the barrister, the latter is the left, and both are necessary to the successful execution of his duties.

But if our profession is thus obliged to repair to the other sciences, and to polite learning ; and to draw largely from those genial fountains ; it has often made the most liberal returns. Many of the great jurists of ancient times are enrolled among the classic writers. The revival of learning in Europe, was, perhaps, as much aided by the works of the civilians who applied themselves, on the re-production of the Pandects, to the study and illustration of the Roman law, as by any other single cause. In later times, the law has contributed its full share to civilization, science, and letters ; some of the Profession have created eras in the history of our race. It was an English lawyer who redeemed the human mind from the trammels of the scholastic philosophy ; swept from the temples of learning, the cobwebs and rubbish of the dark ages ; opened to the sciences the book of nature ; and paved the way for the brilliant and useful career of the last two centuries in science and the arts. Stimulated by his suggestions and example, the greatest jurist of continental Europe republished to christian nations their master's forgotten law ; taught them that true glory consists, not in the possession or the successful use of military power, but in the observance of truth, justice, and humanity ; and gave to mankind, a code of International law, the benign effects of which have been felt throughout the world, and are destined to yet higher developement. At a subsequent day, a French advocate, having first scanned the whole history of his race, and concentrated the spirit of all human legislation, proceeded to unfold the principles of political philosophy, and to establish those axioms in government, from which we, in common with other free countries, are daily deriving so many and such important benefits. Passing over lesser names, and coming down to our own times,

the living statesman who has done most by his example, his speeches, and his writings, for the diffusion of knowledge—he who heralded the dynasty of the schoolmaster, and boldly proclaimed its pre-eminence over thrones and dominions, powers, potentates, and princes—he too is a lawyer. And though few in our profession can be ranked, in extent of learning and versatility of powers, with *Bacon* and *Grotius*, *Montesquieu* or *Brougham*, yet its annals include many who have laid the general interests of letters under heavy obligations. Such persons have indeed always been found among the learned civilians. In the earlier periods of the English law, general learning was little cultivated by its professors, and elegant letters still less. Sir Thomas More was one of the first common lawyers who applied himself to such pursuits; in the next two centuries the instances become more common. Sir John Davies, Attorney General of James I., for Ireland, and afterwards an English Judge, acquired distinction as a poet, and may still be read with pleasure.* In the next reign, and during the Protectorate, the gigantic learning of Selden was one of the chief glories of the nation. The impulse given to the cause of letters, in the reign of Queen Anne, extended to the Bar; and the British Isles—for the profession in Scotland and Ireland should be included in the remark—may now boast of many, who have shed over the rigid features of their jurisprudence, the lights and graces of elegant scholarship; and of some, who have made

* The English prose writings of Davies may worthily be ranked with those of his greatest cotemporaries. His Preface Dedicatory to his Reports of Cases decided in Ireland, is one of the most eloquent vindications of the Common Law, and of the Legal Profession, to be found in our language.

successful excursions into the territories of general literature, and even into those of imagination and fancy.*

Nor has the Legal Profession in the United States been unmindful of its duty in this respect. Independently of numerous efforts of a miscellaneous character, which have proceeded from members of the American bar, the political essays and speeches, juridical writings and professional treatises, of several of our jurists, may well be ranked among our most successful literary productions. The judicial opinions of KENT and STORY; — to say nothing of those of other American Judges — the commentaries they have published; and the writings of EDWARD LIVINGSTON, PROFESSOR HOFFMAN, and HENRY WHEATON are not less distinguished for clearness and beauty of style, than for variety and depth of learning. Of these authors, it is, on this occasion and in this place, gratifying to remember, that two of them were born and reared within our state; and that the last named was many years a resident of this city. I may therefore, without any seeming disparagement of others, be permitted to express my sense of the merits, in a general and not merely professional view, of some of their performances. Mr. Wheaton's treatise on International Law, notwithstanding the greater diplomatic experience

* Sir Walter Scott having been bred to the Bar, and having left it, in the first instance, for a semi-judicial office which he held until his death, may, with considerable propriety, be claimed by the Profession. His biographer informs us, that his initiatory studies were pursued with singular diligence; and it is evident, from many of his works, that his professional knowledge, especially in the antiquities of the Law, was extensive and accurate. The Baron of Bradwardine himself was not more deeply read in the learning of the law; and the splendid romance of *Ivanhoe* gives as correct a picture of the degradation of the *villains*; the vassalage of the inferior tenantry; the rude grandeur and sturdy independence of the Barons; their conflicts with each other, and the control they exerted over the sovereign; and the disorders, licentiousness, and rapine of feudal times; as, perhaps, can any where be found.

of our trans-atlantic brethren, supplied a *desideratum* in the English language; the works of Edward Livingston are among the most valuable contributions of modern times to the philosophy of legislation; and whilst the Commentaries on American Law, rival in elegance and perspicuity the beautiful work of Blackstone, they seem destined to the like degree of popular favour and extensive usefulness.

It is but an obvious conclusion, from all that has been said, that whether we look to the interests of individuals; to the true usefulness and honour of the Profession; or to the well being and improvement of society; we shall find abundant reason, on even the most cursory view of each of those topics, for providing increased means for instruction in juridical science; and that on bringing together, as we should do, these various considerations, we have a mighty aggregate of motives for doing it with promptitude and energy. To meet this call, so far as relates to this part of our state; to incite in the student a generous ambition to excel in the science of jurisprudence; and to assist him in acquiring that kind and degree of knowledge, which may enable him to admire, and perhaps to emulate, the worthies of our profession, we have engaged in the task on which we are now to enter. As our instructions will be drawn from authoritative decisions, or from text books of established character, and will be delivered in a methodical order, we indulge the hope, that they will be generally useful to the professional student, and to junior members of the bar; and that gentleman engaged in commerce, or preparing for public life, may also find it advantageous to attend on some of our lectures.

Our wishes, however, do not terminate in this. We desire to make our institution, not only a school of sound

learning, but of enlightened virtue. To this end, we shall endeavour to cultivate the moral taste of our pupils, as well as their intellectual powers; and shall never cease to admonish them, that without correct principles and purity of life, the highest gifts and most extensive acquisitions, will fail of securing that honest and enduring fame, which alone is worthy of pursuit. How far we shall be able, in any efforts we may make, to meet our own desires, or the expectations of others; and to awake and keep up that degree of interest which is necessary to give permanence to a new establishment; time only can disclose. Feeling sure, that a generous Profession and an enlightened public, will look with indulgence, if not with favour, on our endeavours, we enter, with cheerfulness and hope, on the duties assigned us.

